



**Town of Walpole  
Commonwealth of Massachusetts  
Zoning Board of Appeals**

John Lee, Chairman  
Susanne Murphy, Vice Chair  
Robert Fitzgerald, Clerk  
Mary Jane Coffey, Member  
Drew Delaney, Member  
David Anderson, Assoc. Member

**DECISION- BOARD OF APPEALS CASE NO. 20-26**

**APPLICANT:**

JKM Property Investments, LLC

**LOCATION OF PROPERTY INVOLVED:**

979 Main Street  
Walpole Assessors Map: 33-30  
Zoning District: CBD

**APPLICATION:**

A **Special Permit** under Section 8 (Parking Regulations): 4 (Baseline Parking Calculation): C. of the Zoning Bylaw to allow less than the minimum parking requirement (1 space per unit where 2 are required) as shown on the plan entitled: "Site Plan of Land "979 Main Street" Walpole, Massachusetts" dated April 28, 2020 prepared by GLM Engineering Consultants, Inc., as may be amended.

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On August 19, 2020 a Public Hearing was held, via Zoom Meeting, for the purpose of receiving information and voting upon a decision as to granting of the Special Permit requested. The members who were present and voting:

**NAMES OF VOTING MEMBERS**

John Lee, Chairman  
Robert Fitzgerald, Clerk  
Mary Jane Coffey, Member  
Drew Delaney, Member  
David Anderson, Associate Member

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A motion was made by Coffey, and seconded by Delaney that the Board grant JKM Property One, LLC a **Special Permit** under Section 8 (Parking Regulations): 4 (Baseline Parking Calculation): C. of the Zoning Bylaw to allow less than the minimum parking requirement (1 space per unit where 2 are required) as shown on the plan entitled: "Site Plan of Land "979 Main Street" Walpole, Massachusetts" dated April 28, 2020 prepared by GLM Engineering Consultants, Inc. (Roll Call Vote: Fitzgerald-aye; Coffey-aye; Delaney-aye; Anderson-aye; Lee-opposed) The vote was **4 - 1 - 0** in favor, therefore, the Special Permit is hereby granted subject to the following conditions:

1. As stipulated by the Applicant, the residential component of the building shall be eight (8) one (1) bedroom units. Each unit shall be limited to one (1) vehicle, regardless of the number of occupants of the unit. This limitation shall be written into the lease for each unit.
2. As stipulated by the Applicant, no dogs shall be allowed in the building, except service dogs or as otherwise required by law. This prohibition shall be written into the lease for each unit.

### **REASONS FOR DECISION:**

The Board finds that the proposed redevelopment of the existing Bank of America building into a mixed use building with a proposed restaurant use on the first floor and basement floor with three floors of residential units above is an appropriate use for this building. The Applicant has taken the needs of the Town as well as the character of the area into account to provide an appropriate number of parking spaces. The Board finds that the Applicant meets all of the requirements for the granting of the requested Special Permit.

### **FURTHER FINDINGS**

1. Section 2: Administration, 2. Special Permits, A. Finding and Determination required that:

***Special Permits may be granted by the Board of Appeals and the Planning Board (the Special Permit Granting Authority or "SPGA"), as provided in this Bylaw, only for uses which are in harmony with the purposes and intent of this Bylaw and which shall be subject to any general or specific rules prescribed herein and to any appropriate conditions, safeguards, and limitations on time and use.***

The Board finds that per the Zoning Bylaw, "the purpose of this district is to provide for a center of business activity accessible by pedestrian travel, to provide a center for municipal and cultural activities, and to act as a landmark and symbol of the Town". The redevelopment of the building will repurpose the existing commercial space and maintain a commercial use in the heart of the CBD. The residential use above the retail space is allowed by and fully conforms with the use requirements of the Bylaw. By limiting the number of cars that residents can park, the development will be pedestrian and commuter rail oriented and in character with the rest of the CBD.

2. Section 2: Administration, 2. Special Permits, B. Finding and Determination required that:

***Prior to granting a Special Permit, the SPGA shall make a finding and determination that the proposed use, building, structure, sign, parking facility or other activity which is the subject of the application for the special permit:***

***(a) does and shall comply with such criteria or standards as shall be set forth in the section of this Bylaw which refers to the granting of the requested special permit;***

The Board finds that the proposed parking reduction is in harmony with the purposes and intent of the By-Law and satisfies the conditions of approval as set forth below.

***(b) shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood;***

As conditioned above, the Board finds that eight (8) residential vehicles will not adversely affect the immediate neighborhood.

***(c) shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood;***

The Board finds that the condition of approval limiting residential component to eight one-bedroom units and the number of cars per unit to one adequately addresses the number of residents and visitors to the apartments. As the building is mixed use in the CBD, the retail/commercial component does not require off-street parking under Section 8.9.

***(d) shall comply with the dimensional requirements applicable to zoning district in which the premises is located, including, without limitation, the applicable lot coverage and buffer zone requirements in Section 5-G;***

The Board notes that the lot was made non-conforming by a taking for the town parking lot and will bring this to the attention of the Building Commissioner. If the resulting dimensional deficiencies require an additional Special Permit under Section 9 the Applicant shall apply for the same.

***(e) shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes;***

The Board finds that reducing the required parking spaces will not create any noise, dust, heat, smoke, fumes, odor, glare, or other nuisance.

***(f) shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood;***

The Board finds that reducing the required parking spaces will not create any noise, dust, heat, smoke, fumes, odor, glare, or other nuisance.

***(g) shall not adversely affect the character of the immediate neighborhood; and***

The Board finds that eight (8) one (1) bedroom units with lease restrictions will be more in character with the CBD than a multi-bedroom development with fewer units. The preponderance of apartment units in the downtown area are studio, one, and two-bedroom units. As shown on the plans there is no change to the building footprint and the height of the building is less than the maximum allowed in the CBD. Allowing the requested parking reduction will keep the building in character with the adjacent parcels. As the number of cars is expected to actually be less than otherwise allowed, there is no adverse effect on the neighborhood.

***(h) shall not be incompatible with the purpose of the zoning Bylaw or the purpose of the zoning district in which the premises is located.***

The Board finds that Section 8.1 of the Bylaw states that “the intent of the Parking provisions is to encourage a balance between compact pedestrian-oriented development and necessary car storage.” Given its location near Walpole Station and its location in the Downtown, the Applicant has designed the project to have 1.00 space per residential unit. The Board finds that these ratios are sufficient for the project. Further, the proposed parking arrangement is consistent with the provisions of Section 8.9 of the Bylaw in supporting the intent for the CBD as a “walkable, mixed-use environment.” As such, the grant of this Special Permit as conditioned above is compatible with the CBD.

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### **CONSISTENCY**

This decision is consistent with the purpose and intent of the Zoning Bylaws.

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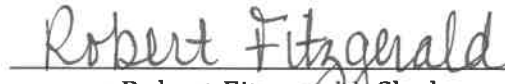

Said Special Permit is granted pursuant to Massachusetts General Law c. 40A § 9 which provides in pertinent part as follows: “...Zoning ordinances or by-laws shall provide that a special permit granted under this section shall lapse within a specified period of time, not more than three years, which shall not include such time required to pursue or await the determination of an appeal referred to in section seventeen, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.”

Massachusetts General Laws c. 40A, §11 provides in pertinent part as follows: “A special permit, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the city or town clerk that 20 days have elapsed after the decision has been filed in the office of the city or town clerk and either that no appeal has been filed or the appeal has been filed within such time, or if it is a special permit which has been approved by reason of the failure of the permit granting authority or special permit granting authority to act thereon within the time prescribed, a copy of the application for the special permit-accompanied by the certification of the city or town clerk

stating the fact that the permit granting authority or special permit granting authority failed to act within the time prescribed, and whether or not an appeal has been filed within that time, and that the grant of the application resulting from the failure to act has become final, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This section shall in no event terminate or shorten the tolling, during the pendency of any appeals, of the 6 month periods provided under the second paragraph of section 6. The fee for recording or registering shall be paid by the owner or applicant."

**APPEALS FROM THIS DECISION FOR A SPECIAL PERMIT, IF ANY, SHALL BE MADE PURSUANT TO MASSACHUSETTS GENERAL LAWS CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.**

WALPOLE ZONING BOARD OF APPEALS

  
Robert Fitzgerald, Clerk 

cc: Town Clerk  
Building Inspector  
Applicant

This decision was made on August 19, 2020 and filed with the Town Clerk on September 2, 2020.